

*Railway Labor Act Excerpts***APPENDIX A****Railway Labor Act**

(45 U.S.C. § 151, *et seq.*)
(Excerpts)

GENERAL PURPOSES

SECTION 2 (45 U.S.C. § 151a). The purposes of the Act are: (1) To avoid any interruption to commerce or to the operation of any carrier engaged therein; (2) to forbid any limitation upon freedom of association among employees or any denial, as a condition of employment or otherwise, of the right of employees to join a labor organization; (3) to provide for the complete independence of carriers and of employees in the matter of self-organization to carry out the purposes of this Act; (4) to provide for the prompt and orderly settlement of all disputes concerning rates of pay, rules, or working conditions; (5) to provide for the prompt and orderly settlement of all disputes growing out of grievances or out of the interpretation or application of agreements covering rates of pay, rules, or working conditions. (June 21, 1934, ch. 691, § 2, 48 Stat. 1186.)

GENERAL DUTIES

SECTION 2 First (45 U.S.C. § 152 First.) It shall be the duty of all carriers, their officers, agents, and employees to exert every reasonable effort to make and maintain agreements concerning rates of pay, rules, and working conditions, and to settle all disputes, whether arising out of the application of such agreements or otherwise, in order to avoid any interruption to commerce or to the operation of any carrier growing out of any dispute between the carrier and the employees thereof. (May 20, 1926, ch. 347, § 2 First, 44 Stat. 577; June 21, 1934, ch. 691, § 2, 48 Stat. 1187.)

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SECTION 2 Seventh (45 U.S.C. § 152 Seventh). No carrier, its officers, or agents shall change the rates of pay, rules, or working conditions of its employees, as a class, as embodied in agreements except in the manner prescribed in such agreements or in Section 6 of the Act. (June 21, 1934, ch. 691, § 2, 48 Stat. 1188.)

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SECTION 3 (45 U.S.C. § 153). First. There is hereby established a Board, to be known as the "National Railroad Adjustment Board," the members of which shall be selected within thirty days after approval of this Act, and it is hereby provided—

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(i) The disputes between an employee or group of employees and a carrier or carriers growing out of grievances or out of the interpretation or application of agreements concerning rates of pay, rules, or working conditions, including cases pending and unadjusted on the date of approval of this Act, shall be handled in the usual manner up to and including the chief operating officer of the carrier designated to handle such disputes; but failing to reach an adjustment in this manner, the disputes may be referred by petition of the parties or by either party to the appropriate division of the Adjustment Board with a full statement of the facts and all supporting data bearing upon the disputes.

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(m) The awards of the several divisions of the Adjustment Board shall be stated in writing. A copy of the awards shall be furnished to the respective parties to the controversy, and the awards shall be final and binding upon both parties to the dispute. In case a dispute arises involving an interpretation of the award the division of the Board upon request of either party shall interpret the award in the light of the dispute.

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Second. Nothing in this section shall be construed to prevent any individual carrier, system, or group of carriers and any class or classes of its or their employees, all acting through their representatives, selected in accordance with the provisions of this Act, from mutually agreeing to the establishment of system, group, or regional boards of adjustment for the purpose of adjusting and deciding disputes of the character specified in this section. In the event that either party to such a system, group, or regional board of adjustment is dissatisfied with such arrangement, it may upon ninety days' notice to the other party elect to come under the jurisdiction of the Adjustment Board.

If written request is made upon any individual carrier by the representative of any craft or class of employees of such carrier for the establishment of a special board of adjustment to resolve disputes otherwise referable to the Adjustment Board, or any dispute which has been pending before the Adjustment Board for twelve months from the date the dispute (claim) is received by the Board, or if any carrier makes such a request upon any such representative, the carrier or the representative upon whom such request is made shall join in an agreement establishing such a board within thirty days from the date such request is made. The cases which may be considered by such board shall be defined in the agreement establishing it. Such board shall consist of one person designated by the carrier and one person designated by the representative of the employees. If such carrier or such representative fails to agree upon the establishment of such a board as provided herein, or to exercise its rights to designate a member of the board, the carrier or representative making the request for the establishment of the special board may request the Mediation Board to designate a member of the special board on behalf of the carrier or representative upon whom such request was made. Upon receipt of a request for such designation the Mediation Board shall promptly make such designation and shall select an individual associated in interest with the carrier or representative he is to represent, who, with the member appointed by the carrier or representative requesting the establishment of the special board, shall constitute the board. Each member of

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the board shall be compensated by the party he is to represent. The members of the board so designated shall determine all matters not previously agreed upon by the carrier and the representative of the employees with respect to the establishment and jurisdiction of the board. If they are unable to agree such matters shall be determined by a neutral member of the board selected or appointed and compensated in the same manner as is herein-after provided with respect to situations where the members of the board are unable to agree upon an award. Such neutral member shall cease to be a member of the board when he has determined such matters. If with respect to any dispute or group of disputes the members of the board designated by the carrier and the representative are unable to agree upon an award disposing of the dispute or group of disputes they shall by mutual agreement select a neutral person to be a member of the board for the consideration and disposition of such dispute or group of disputes. In the event the members of the board designated by the parties are unable, within ten days after their failure to agree upon the award, to agree upon the selection of such neutral person, either member of the board may request the Mediation Board to appoint such neutral person and upon receipt of such request the Mediation Board shall promptly make such appointment. The neutral person so selected or appointed shall be compensated and reimbursed for expenses by the Mediation Board. Any two members of the board shall be competent to render an award. Such awards shall be final and binding upon both parties to the dispute and if in favor of the petitioner, shall direct the other party to comply therewith on or before the day named. Compliance with such awards shall be enforceable by proceedings in the United States district courts in the same manner and subject to the same provisions that apply to proceedings for enforcement of compliance with awards of the Adjustment Board. (May 20, 1926, ch. 347, § 3, 44 Stat. 578; June 21, 1934, ch. 691, § 3, 48 Stat. 1189; June 20, 1966, P.L. 89-456, §§ 1, 2, 80 Stat. 208.)

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SECTION 5 (45 U.S.C. § 155). First. The parties, or either party, to a dispute between an employee or group of employees and a carrier may invoke the services of the Mediation Board in any of the following cases:

(a) A dispute concerning changes in rates of pay, rules, or working conditions not adjusted by the parties in conference.

(b) Any other dispute not referable to the National Railroad Adjustment Board and not adjusted in conference between the parties or where conferences are refused.

The Mediation Board may proffer its services in case any labor emergency is found by it to exist at any time.

In either event the said Board shall promptly put itself in communication with the parties to such controversy, and shall use its best efforts, by mediation, to bring them to agreement. If such efforts to bring about an amicable settlement through mediation shall be unsuccessful, the said Board shall at once endeavor as its final required action (except as provided in paragraph third of this section and in section 10 of this Act) to induce the parties to submit their controversy to arbitration, in accordance with the provisions of this Act.

If arbitration at the request of the Board shall be refused by one or both parties, the Board shall at once notify both parties in writing that its mediatory efforts have failed and for thirty days thereafter, unless in the intervening period the parties agree to arbitration, or an emergency board shall be created under section 10 of this Act, no change shall be made in the rates of pay, rules, or working conditions or established practices in effect prior to the time the dispute arose. (May 20, 1926, ch. 347, § 5 First, 44 Stat. 580; June 21, 1934, ch. 691, § 5, 48 Stat. 1195.)

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SECTION 6 (45 U.S.C. § 156). Carriers and representatives of the employees shall give at least thirty days' written notice of an intended change in agreements affecting rates of pay, rules, or working conditions, and the time and place for the beginning of conference between the representatives of the parties interested in such intended changes

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shall be agreed upon within ten days after the receipt of said notice, and said time shall be within the thirty days provided in the notice. In every case where such notice of intended change has been given, or conferences are being held with reference thereto, or the services of the Mediation Board have been requested by either party, or said Board has proffered its services, rates of pay, rules, or working conditions shall not be altered by the carrier until the controversy has been finally acted upon as required by section 5 of this Act, by the Mediation Board, unless a period of ten days has elapsed after termination of conferences without request for or proffer of the services of the Mediation Board. (May 20, 1926, ch. 347, § 6, 44 Stat. 582; June 21, 1934, ch. 691, § 6, 48 Stat. 1197.)

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SECTION 10 (45 U.S.C. § 160). If a dispute between a carrier and its employees be not adjusted under the foregoing provisions of this Act and should, in the judgment of the Mediation Board, threaten substantially to interrupt interstate commerce to a degree such as to deprive any section of the country of essential transportation service, the Mediation Board shall notify the President, who may thereupon, in his discretion, create a board to investigate and report respecting such dispute. Such board shall be composed of such number of persons as to the President may seem desirable: *Provided, however,* That no member appointed shall be pecuniarily or otherwise interested in any organization of employees or any carrier. The compensation of the members of any such board shall be fixed by the President. Such board shall be created separately in each instance and it shall investigate promptly the facts as to the dispute and make a report thereon to the President within thirty days from the date of its creation.

There is hereby authorized to be appropriated such sums as may be necessary for the expenses of such board, including the compensation and the necessary traveling expenses and expenses actually incurred for subsistence, of

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the members of the board. All expenditures of the board shall be allowed and paid on the presentation of itemized vouchers therefor approved by the chairman.

After the creation of such board and for thirty days after such board has made its report to the President, no change, except by agreement, shall be made by the parties to the controversy in the conditions out of which the dispute arose. (May 20, 1926, ch. 347, § 10, 44 Stat. 586; June 21, 1934, ch. 691, § 7, 48 Stat. 1197.)

National Mediation Board Instructions

APPENDIX B

**National Mediation Board
Instructions to Mediators**

May 12, 1960.

To: ALL MEDIATORS

FROM: E. C. Thompson, Executive Secretary

Section 6 of the Railway Labor Act states:

"In every case where such notice of intended change has been given, or conferences are being held with reference thereto, or the services of the Mediation Board have been requested by either party, or said Board has proffered its services, rates of pay, rules, or working conditions shall not be altered by the carrier until the controversy has been finally acted upon as required by section 5 of this Act, by the Mediation Board, unless a period of ten days has elapsed after termination of conferences without request for or proffer of the services of the Mediation Board."

The Board's policy in regard to the "status quo" provision quoted above is outlined in the following letters:

"August 17, 1956

"File No. C-2511

"Mr. T. C. Carroll, President
Brotherhood of Maintenance of Way Employees
12050 Woodward Avenue
Detroit 3, Michigan

Dear Mr. Carroll:

"Reference is made to your letter of August 10, 1956, in connection with our File C-2511 which covers your application for mediation dated July 27, 1956 in connection with a dispute between your organization and the Atchison,

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Topeka & Santa Fe Railway Company, Panhandle & Santa Fe Railway Co. and Gulf, Colorado & Santa Fe Railway Co. which you described on your application as follows:

“ ‘Failure of management to maintain status quo with respect to territorial limits and assignments currently in effect, and to dispose of our Formal Notice dated April 23, 1956, without undue delay.’ ”

“The Board considered your letter of August 10, 1956 in Executive Session on August 16, 1956. The Carrier has taken the position that the proposed rearrangement of sections and the consequent changes in forces are permissible under the present agreement, and if a dispute exists as to the application of the present rules it should be taken before the National Railroad Adjustment Board.

“The National Mediation Board does not understand Section 6 of the Railway Labor Act to mean that proposed revisions of agreement rules and the invocation of this Board’s services on such proposed changes has the effect of staying the application of existing rules unless and until such existing rules are amended or revised.

“In view of the language of Section 2, Seventh of the Railway Labor Act stating ‘No carrier, its officers, or agents shall change the rates of pay, rules, or working conditions of its employees, as a class as embodied in agreements except in the manner prescribed in such agreements or in section 6 of this act.’, the Board fails to find any basis for complying with your request.

“The Board does feel, however, that the carriers should not unduly delay completion of negotiations on the changes requested in your General Chairman’s letter of April 23, 1956, and urges the carriers to arrange to meet your representatives and complete negotiations at the earliest practicable date.

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"Copy of your letter of August 10, 1956 is being sent herewith to Messrs. Tucker, Buchanan and Olson of the carriers with copy of this letter.

"By direction of the NATIONAL MEDIATION BOARD,

"s/ E. C. THOMPSON
Executive Secretary"

"June 19, 1957

"A-5498

"Mr. C. R. Tucker, Vice President Operations
Atchison, Topeka and Santa Fe Railway
80 East Jackson Blvd.
Chicago 4, Illinois

"Mr. Geo. M. Harrison, Grand President
Brotherhood of Railway & Steamship Clerks
1055 Vine Street
Cincinnati 2, Ohio

Gentlemen:

"Reference is made to application for mediation filed by the Brotherhood of Railway & Steamship Clerks on June 5, 1957 in a dispute between that organization and the Atchison, Topeka and Santa Fe Railway Company described in the application as follows:

"Request of employes that the Carrier enter into an agreement with respect to its transfer of certain work and positions from Los Angeles, California, to Topeka, Kansas, and that such agreement be as set forth in letter dated May 6, 1957, attached hereto and designated "Exhibit A-1" as modified in letter dated May 17, 1957, attached hereto and designated "Exhibit A-2" both of which are made a part hereof."

"As we understand it this application was intended to cover the proposals made by the General Chairman of the

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organization to Mr. W. G. Hunt, General Auditor of the Atchison, Topeka and Santa Fe Railway Company in his letter to Mr. Hunt of May 6, 1957, this letter being superseded by letter from the General Chairman to Mr. Hunt of May 17, 1957.

"The latter letter proposed the negotiation of an agreement between the parties providing certain benefits and protection for employees in the Accounting Department of the Santa Fe at Los Angeles who are proposed to be moved from Los Angeles to Topeka, Kansas. The carrier was advised of this application in our letter of June 7, 1957 and the carrier's reply of June 14, 1957 was received in this office on June 17, 1957. A copy of Mr. Tucker's letter of June 14 to this office is being sent to Mr. Harrison for his information. Mr. Harrison will note from Mr. Tucker's letter that the carrier's position is that the transfer of the employees from Los Angeles to Topeka will be made in accordance with the rules now contained in the current agreement between the parties.

"This application has been considered by the Board and on the basis of the proposal made to General Auditor Hunt in Mr. Byrne's letters of May 6 and May 17, 1957 the Board has directed that Mr. Harrison's application be docketed as Case No. A-5498.

"With reference to the question of maintenance of status quo as mentioned in Mr. Harrison's letter of June 5, 1957, it is not the Board's understanding of Section 6 that an invocation for its services has the effect of staying action under existing rules or renders compliance with existing rules a violation of the Railway Labor Act.

"A mediator will be assigned to commence the handling of this case in Chicago at an early date.

"Very truly yours,

"s/ E. C. THOMPSON
Executive Secretary"